

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

**Case No. CV-13-7648-MWF (VBKx)**

**Date: February 19, 2014**

Title: Darryl Lee -v- CarMax Auto Superstores California, LLC, et al.

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Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:

Rita Sanchez

Court Reporter:

Not Reported

Attorneys Present for Plaintiff:

None Present

Attorneys Present for Defendant:

None Present

**Proceedings (In Chambers): ORDER TO SHOW CAUSE RE JURISDICTION**

This action was removed to this Court on October 16, 2013. (Docket No. 1). The Notice of Removal claims that jurisdiction is proper under 28 U.S.C. § 1332. (*Id.* at 2). The jurisdictional allegations in the Notice of Removal appear to be defective. This Court has a *sua sponte* obligation to confirm that it has subject matter jurisdiction. *Nevada v. Bank of Am. Corp.*, 672 F.3d 661, 673 (9th Cir. 2012) (“[I]t is well established that ‘a court may raise the question of subject matter jurisdiction, *sua sponte*, at any time during the pendency of the action . . . .’” (quoting *Snell v. Cleveland, Inc.*, 316 F.3d 822, 826 (9th Cir. 2002))).

The Court has become aware of cases substantively similar to the present action in which subject matter jurisdiction has been questioned. *See Gullins v. CarMax Auto Superstores California, LLC*, No. 13-9398-JAK (CWx) (C.D. Cal.); *Murray v. CarMax Auto Superstores California, LLC*, No. 12-CV-02966-L-MDD, 2013 WL 4500893 (S.D. Cal. Aug. 21, 2013); *Perez v. CarMax Auto Superstores California, LLC*, No. 13-CV-2886 BEN (BLM), 2014 WL 338838 (S.D. Cal. Jan. 28, 2014); *Salang v. CarMax Auto Superstores California, LLC*, No. 13-CV-870 BEN (WVG), 2014 WL 334466 (S.D. Cal. Jan. 28, 2014).

These courts have questioned both the diversity of the parties and the amount in controversy. For example, a district court questioned whether Defendant’s principal place of business was in California, based on a verified discovery response Defendant had submitted in a state court proceeding in San Diego. *See Murray*, 2013 WL

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4500893, at \*3. Defendant, as the party seeking to invoke this Court's jurisdiction, bears the burden of showing by a preponderance of the evidence that its principal place of business is not in California. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

As to the amount in controversy at the time of removal, Plaintiff sought actual damages in the amount of \$40,000, punitive damages in the amount of \$34,000, attorneys' fees as allowed by law, and injunctive relief. (Notice of Removal at 4-5). The Court notes, however, that the total amount of sale of Plaintiff's vehicle was only \$18,296.27. Defendant bears the burden of showing that more than \$75,000 is in controversy.

Accordingly, the Court **ORDERS DEFENDANT TO SHOW CAUSE**, in writing, by no later than **March 10, 2014**, why this action should not be remanded for lack of subject matter jurisdiction. Plaintiff may submit a written response on or before **March 17, 2014**.

The Court sets a hearing on this matter for **March 24, 2014, at 10:00 A.M.** The Court **CONTINUES** the hearing on the Motion to Dismiss and Motion to Strike (Docket Nos. 14-15), presently set for a hearing on February 24, 2014, to **March 24, 2014, at 10:00 A.M.**

IT IS SO ORDERED.